

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)

vs.)

GERALD A. SANDUSKY)

Nos. CP-14-CR-2421-2011 &
CP-14-CR-2422-2011

Commonwealth Attorneys:

Joseph McGettigan, Esquire

Jonelle H. Eshbach, Esquire

Defense Attorney:

Joseph L. Amendola, Esquire

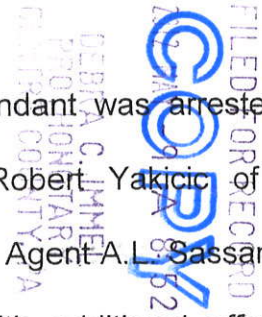
MOTION FOR CONTINUANCE

TO THE HONORABLE JOHN M. CLELAND, SENIOR JUDGE SPECIALLY ASSIGNED
TO THESE MATTERS IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA:

AND NOW, comes the Defendant, GERALD A. SANDUSKY, through his
attorney, Joseph L. Amendola, Esquire, who respectfully represents the following:

1. On or about November 5, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2422-2011 by Cpl. Scott F. Rossman of the
Pennsylvania State Police, Avondale Barracks and Agent A.L. Sassano of the
Pennsylvania Office of Attorney General and charged with various offenses stemming
from conduct which allegedly occurred on diverse dates between January 1994 and
December 2008, in College Township, Centre County, Pennsylvania and various other
locations.

2. On or about December 7, 2011, the Defendant was arrested in
Criminal Information No. CP-14-CR-2421-2011 by Trooper Robert Yakicic of the
Pennsylvania State Police, Bureau of Criminal Investigations, and Agent A.L. Sassano of
the Pennsylvania Office of Attorney General, and charged with additional offenses



stemming from conduct which allegedly occurred on or about January 1997 to December 2008 in College Township, Centre County, Pennsylvania and various other locations.

3. On December 13, 2011, the Defendant waived his preliminary hearing in these matters, and thereafter, waived his arraignment on January 11, 2012.

4. The Defendant also filed a Request for Bill of Particulars with the Commonwealth on or about January 18, 2012, and thereafter filed an Application for Order for Bill of Particulars on or about January 24, 2012 and a Motion to Compel Commonwealth to Provide Defendant with Pre-Trial Discovery Materials on or about February 6, 2012.

5. Following a hearing on February 10, 2012, this Court entered an Order on February 13, 2012 regarding Defendant's Motion To Compel Pre-Trial Discovery as a result of which the Commonwealth subsequently provided additional discovery materials to Defendant's counsel on or about January 17, 2012, January 23, 2012, March 7, 2012 and March 12, 2012 comprised of hundreds of pages of information which the Defendant, his counsel, and other members of his defense team continue to review at this time.

6. Following a hearing on February 10, 2012 and by Order dated February 13, 2012, this Court directed the Commonwealth to answer portions of the Defendant's Bill of Particulars including the exact time, date, and location of any offense giving rise to the particular offenses as alleged in the Information, the exact age of the alleged victim on the date of the offense, and an explanation from the Commonwealth as to why it could not provide certain information in the event the Commonwealth failed to comply completely with the Court's Order.

7. The Commonwealth provided Defendant's counsel with a Bill of Particulars dated February 21, 2012 on or about March 1, 2012 as well as a Response to the Order of Court Directing Pre-Trial Discovery on or about February 29, 2012 in which it failed to provide the Defendant with a number of items, materials and documents he had requested in his Bill of Particulars and Motion to Compel Discovery.

8. In its Response dated February 29, 2012 to the Court's Order dated February 13, 2012 directing the Commonwealth to provide discovery to the Defendant, the Commonwealth alleged various reasons why it could not or would not provide certain materials to the Defendant and stated its position that many of the materials requested by the Defendant constituted Grand Jury materials which were non-discoverable, certain matters were irrelevant, and other information concerning psychological evaluations, juvenile adjudications and juvenile police investigations, and Children and Youth Services' reports and related information were confidential and/or privileged and not subject to discovery by the Defendant.

9. On or about March 2, 2012, the Defendant filed an Application for Order for a More Specific Bill of Particulars with argument held before the Court on March 12, 2012.

10. In its Order dated March 13, 2012, the Court dismissed the Application for a More Specific Bill of Particulars as moot stating in part the Commonwealth had clearly represented it could not provide the Defendant with a more specific Bill of Particulars.

11. On or about March 6, 2012, the Defendant filed a Response to the Commonwealth's Response to the Court's Order Directing Pre-Trial Discovery, following

which the Court entered an Order on March 20, 2012 directing the Commonwealth to disclose to counsel for the Defendant any juvenile adjudication records of any witness which the Commonwealth intends to call to testify at trial, to disclose addresses and phone numbers of the alleged victims for the current time and at the time of the alleged offenses with which the Defendant is currently charged, as well as, to provide any psychological evaluations of any alleged victims unless the Commonwealth establishes to the satisfaction of the Court that the evaluations are privileged despite being in its possession.

12. The Defendant filed his Omnibus Pre-Trial Motion pursuant to the Court's Order dated February 29, 2012 on or about March 22, 2012, which included a Motion for Continuance, and the Commonwealth filed its Answer to Defendant's Omnibus Pre-Trial Motion on or about March 29, 2012.

13. Part of the Defendant's Omnibus Pre-Trial Motion included a Motion for a Continuance, which this Court denied by Order April 5, 2012 with the provision that the commencement of jury selection would begin on June 5, 2012.

14. On April 27, 2012, the Commonwealth filed a Motion to Preclude Improper Use of Subpoena Power by Defendant which this Court denied by Order May 3, 2012.

15. The Defendant has provided pre-trial supplemental discovery requests to the Commonwealth numbered First through Fiftieth Supplemental Pre-Trial Discovery Request.

16. The Defendant and counsel first obtained initial discovery materials from the Commonwealth on or about January 17, 2012, and thereafter received additional

discovery materials on January 23, 2012, March 7, 2012, March 12, 2012, March 27, 2012, April 27, 2012, and May 7, 2012.

17. The Defendant, through counsel, to date, has provided the Commonwealth with fifty (50) discovery requests dated December 29, 2011, February 6, 2012, February 25, 2012, March 12, 2012 (2), March 21, 2012, March 27, 2012 (2), March 28, 2012 (2), April 3, 2012 (5), April 4, 2012 (2), April 9, 2012 (2), April 10, 2012, April 13, 2012 (4), April 16, 2012 (2), April 18, 2012 (4), April 19, 2012 (3), April 24, 2012 (2), May 3, 2012 (4) and May 4, 2012 (10).

18. The Commonwealth, aside from providing some initial discovery materials on January 17, 2012, January 23, 2012, March 7, 2012 (non-redacted copies of original initial discovery provided), March 12, 2012, and March 27, 2012 had not provided Defendant or his counsel with any additional discovery materials until April 30, 2012 when Defendant's counsel received over two hundred (200) pages of additional discovery materials from the Commonwealth.

19. The Defendant filed a Second Motion to Compel discovery with this Honorable Court on or about May 3, 2012 in response to not receiving many of the requested discovery materials as set forth in its First through Fiftieth Supplemental Request for Discovery.

20. The Commonwealth provided additional discovery materials to Defendant's counsel consisting of at least one hundred (100) pages, nine (9) CDs of information including a portal hard drive of information on May 7, 2012, which counsel, at the time of the filing of this Motion, has not had an opportunity to review due to the need to prepare for other matters to be heard by this Court on May 9, 2012.

21. Among the information and materials provided to Defendant's counsel by the Commonwealth on May 7, 2012, was a portable hard drive of information labeled "Sandusky Home Computers – EO1 Files, apparently containing voluminous materials. Defendant's counsel cannot access the information contained on the portable hard drive due to a lack of the sophisticated equipment and/or software needed to download the information contained in the portable hard drive. The Defendant also is unable to open the information on a DVD+R disc labeled: 1) Item #1, G7-11930V, TSM Program Databases, Defense Copy; and a CD-R disc labeled Item #8, G7-119304, Phone Records From Search at Paterno's Office on 02/06/2012. The Defendant is requesting the Commonwealth to provide a paper copy of the materials contained in the portable hard drive, the DVD+R and the CD-R at the earliest possible time to permit counsel and other members of the defense team to review the information contained on the aforementioned items.

22. The discovery materials provided by the Commonwealth to Defendant's counsel on April 27, 2012 and May 7, 2012 have provided Defendant's counsel with additional information concerning the Defendant's cases which have led to the necessity for Defendant's counsel to provide the Commonwealth with additional supplemental discovery requests in order to obtain further necessary information so he can properly and adequately prepare the Defendant's cases for trial.

23. Due to the number of potential witnesses who have become known to the Defendant and his counsel following recent receipt of the Commonwealth's discovery materials in these matters and in anticipation of additional witnesses who will be identified and will need to be interviewed by Defendant's representatives prior to trial, the

Defendant's investigators will need a substantial amount of additional time to locate and interview these witnesses known and unknown at the current time.

24. Defendant's counsel issued over forty (40) subpoenas *duces tecum* to various agencies, institutions, entities and individuals to produce records and information relating to the Defendant's cases which the Defendant believes are critical to the preparation of his defense, and, to date, while some of these entities have provided Defendant's counsel with information requested by the Defendant in his subpoenas, a number of other entities have yet to provide the requested information and materials requested in the aforementioned subpoenas and an additional number of entities, at last count, ten (10) have filed motions to quash Defendant's subpoenas *duces tecum* which is the subject of a hearing before this Court on May 9, 2012.

25. The Defendant has engaged the services of expert psychiatric/psychological witnesses for separate and distinct purposes to assist him in the preparation of his defense and has recently provided those experts with discovery materials provided to the Defendant by the Commonwealth to date. These experts have preliminarily advised Defendant's counsel they will unlikely be able to make any preliminary conclusions about the Accusers/Alleged Victims and the Defendant due to the lack of complete information regarding the Defendant's case and the Accusers/Alleged Victims which has been requested by the Defendant beginning shortly after his scheduled preliminary hearing in December of last year through the current time and which has not been provided to Defendant's counsel by the Commonwealth and other entities in possession of the requested information.

26. The Defendant further submits that two (2) witnesses, Timothy Curly and Gary Schultz, who are presently defendants in cases in which the Commonwealth has charged them with perjury, are critical to his defense in regard to the allegations made by the Commonwealth relating to Accuser/Alleged Victim 2.

27. The Defendant's counsel has contacted the attorneys for Timothy Curley and Gary Schultz who have advised Defendant's counsel in writing that, if these individuals are subpoenaed to appear at the Defendant's trial as witnesses, they will invoke their Fifth Amendment privileges due to the fact they have charges pending against them. If the aforementioned individuals invoke their Fifth Amendment privilege, they will be unavailable for legal purposes to testify at Defendant's trial.

28. Based upon the sworn testimony of Timothy Curley and Gary Schultz before the Thirty-Third Investigative Grand Jury as set forth by the Commonwealth at their preliminary hearings held on December 16, 2011 in Dauphin County, the Defendant believes the testimony of these two (2) witnesses will impeach any testimony provided by Michael McQueary, a key Commonwealth witness in regard to the allegations set forth in Counts 7 through 11 inclusive in Information CP-14-CR-2422-2011 relating to Accuser/Alleged Victim 2.

29. The Defendant submits that, if Timothy Curley and Gary Schultz are unavailable to testify at his trial as witnesses, his due process rights under the Sixth Amendment of the United States Constitution as made applicable to the Commonwealth through the Fourteenth Amendment of the United States Constitution as well as under the due process clause of the Constitution of the Commonwealth of

Pennsylvania will be violated, and he will be unable to present an adequate defense to these charges.

30. The Defendant and his counsel submit they need additional time to review the materials which have just been provided to them by the Commonwealth through the pre-trial discovery process, to review additional information from the Commonwealth which the Defendant believes will be forthcoming in response to Defendant's supplemental discovery requests Thirty-Seventh through Fiftieth, and to provide the Defendant's experts with information which the Defendant anticipates receiving from the Commonwealth and third parties relating to the Accusers/Alleged Victims in order for those experts to properly assist the Defendant in the preparation of his defense at trial.

31. The Defendant issued subpoenas *duces tecum* to Verizon Wireless, AT&T, and T-Mobile on April 9, 2012 to obtain phone records for Accusers/Alleged Victims between September 2008 and February 2012. To date, Verizon Wireless has responded to the aforementioned subpoena in a limited fashion while AT&T and T-Mobile have not responded at all to the aforementioned subpoenas issued to them by Defendant's counsel on April 9, 2012.

32. The Defendant has maintained from the outset of the prosecution in these matters he believes a number of the Accusers/Alleged Victims knew each other prior to the onset of the Commonwealth's investigation in these matters and have communicated and collaborated with each other during the course of the Commonwealth's investigation which began in the fall of 2008 and which continues to this date.

33. The Defendant submits the requested phone records from the aforementioned carriers represent critical information which he needs in order to properly and adequately prepare his defense to the charges brought against him by the Commonwealth in these matters.

34. The Defendant and his defense team will need a substantial amount of time to evaluate the aforementioned phone records once they receive this information from the phone carriers.

35. To date, the Commonwealth has not provided any response to Defendant's Thirty-Seventh through Fiftieth Supplemental Requests for Discovery.

36. The Defendant further believes the Commonwealth's investigation into allegations of the Defendant's alleged misconduct is continuing and will require the Commonwealth to turn over additional materials to the Defendant for the foreseeable future.

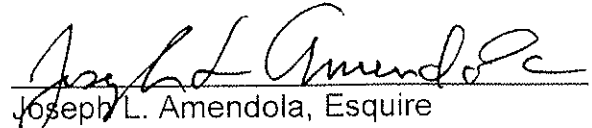
37. Due to all the outstanding discovery issues and materials just made available to the Defendant and his defense team as well as all the materials which still have not been provided to the Defendant and his defense team which they believe are necessary for the adequate preparation of the Defendant's defense in these cases, Defendant's counsel is very concerned he will be unable to effectively and adequately represent the Defendant at trial if the Defendant's cases are not continued for all the reasons set forth hereinabove.

38. For all the aforementioned reasons, the Defendant respectfully requests that this Honorable Court enter an Order granting a continuance in his cases.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter an Order granting a continuance in his cases.

Respectfully submitted,

BY:


A handwritten signature in black ink, appearing to read "Joseph L. Amendola", written over a horizontal line.

Joseph L. Amendola, Esquire
Attorney for Defendant
110 Regent Court, Suite 202
State College, PA 16801
(814) 234-6821
I.D. No. 17667

Date: May 9, 2012

VERIFICATION

I verify that the statements made in the foregoing are true and correct. I understand that false statements are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.



Joseph L. Amendola, Esquire

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Defense Attorney:

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CERTIFICATE OF SERVICE

AND NOW, this 9th day of May, 2012, I, Joseph L. Amendola, hereby certify that I have, this date, served a copy of the foregoing document, by:


Hand Delivery

Hon. John M. Cleland, Senior Judge
c/o Ms. Maxine Ishler, Court Administrator
Centre County Courthouse
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